IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8586 of 1988

For Approval and Signature:

Noble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHAMPSI H KARIA

Versus

STATE OF GUJARAT

Appearance:

MR CH VORA for Petitioner

Mr S.K.Patel, AGP for Respondent No. 1, 4

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 31/03/2000

ORAL JUDGEMENT

This petition is filed directing the respondents to rebuild the demolished construction which has been effected against the petitioner and also to pay compensation for illegal action .

Interim relief was also prayed.

It appears that the petitioner had also filed a civil suit in the court of Civil Judge (Senior Division) Kutch at Bhuj. Hence, when the petition came up for admission, a learned Single Judge of this Court (A.P.Ravani,J. as he then was) passed an order in which it was stated that learned counsel for the petitioner had undertaken to withdraw the suit filed by the petitioner on or before January 10, 1989. On that basis, interim relief in terms of para 9 (B) was granted. Para 9 (B) reads as under :

> "(B) Pending admission and hearing and final disposal of this special civil application, the Honourable court may kindly be pleased to restrain the respondents, their agents, servants and subordinates by an appropriate injunction from further demolishing the construction of the present petitioner and also from stopping the present petitioner in making the construction in workable condition and carrying on his business on the land in question situated at Samkhiyari village bearing survey No. 83-3".

Today, the matter is called out for final hearing.

In view of the fact that interim relief was granted and is operative since more than a decade, in my opinion, petition should not be kept alive any further and it can be disposed of by granting liberty to the respondents , if they so desire, to take appropriate proceedings in accordance with law after issuing notice and after affording hearing and following due process of law. Mr. Vora for the petitioner stated that in view of the order passed by this Court on December 29, 1988, in all probability, the suit is withdrawn by the plaintiff. He, however, stated that he has no positive information about withdrawal of the suit. It is,therefore, ordered that in view of the undertaking given by the learned advocate for the petitioner that petitioner will withdraw the suit, that the petition was entertained and rule was issued and interim relief was granted. Hence, it is directed that if the suit is not withdrawn, the suit will be treated as dismissed by the trial Court and it will be treated as disposed of. Petition is accordingly disposed of. Rule is discharged. Interim relief vacated. No order as to costs. Liberty to apply in case of difficulty.

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parekh